

Draft Proposed Revisions To Fishers Island Ferry Enabling Act

AN ACT authorizing the acquisition, construction, equipment and operation of a public ferry for hire from Fishers Island across waters of Long Island Sound; authorizing the creation of Fishers Island ferry district in the town of Southold, Suffolk County and providing for the election of its officers and management of its affairs; authorizing the collection of ferriage charges; authorizing the issuance and sale of obligations of said town and providing for their payment; authorizing the levy and collection of taxes; and providing for other related matters.

The people of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Upon petition as hereinafter provided, the town board of the town of Southold, Suffolk County, may, after a public hearing and with the permission of the state comptroller, establish the entire territory of Fishers Island in said town, exclusive of those portions of Fort Wright which are government owned, a public ferry district, to be known as the Fishers Island ferry district. Such petition shall be signed by the owners of taxable real property situate in the proposed district, owning in the aggregate at least one-half of the assessed valuation of all the taxable real property of the proposed district as shown by the latest completed assessment roll of said town; provided, however, that the petition shall include the signatures of resident owners owning taxable real property aggregating at least one half of the assessed valuation of such taxable real property. All of the provisions of article twelve of the town law, not inconsistent with the provisions of this act, shall apply to the establishment and operation of such district.

Section 1-a. The town board of the town of Southold, Suffolk County, may extend the Fishers Island ferry district to include the entire territory of Fishers Island pursuant to the applicable provisions of article twelve-a of the town law.

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Section 2. The object and purpose of the district shall be to acquire, construct, equip, operate and maintain a public ferry for the transportation for hire of persons and vehicles, and goods, wares and merchandise, from convenient points on Fishers Island across the waters of Long Island sound and other adjacent waters or tributary thereto to points within and without the state. Such ferry may be referred to as the Fishers Island ferry. A further object and purpose of the district shall be to acquire by gift, purchase or lease, an airport or landing field situated on Fishers Island and any other personal or real property necessary for the operation of the District, and to operate and maintain such airport, real and personal property.

Section 3. The commissioners of the District may construct Fishers Island ferry, and acquire all boats and other equipment and appurtenances necessary, or let the necessary contract or contracts therefor. The commissioners may acquire all lands, rights or easements in land necessary for the purposes of such ferry, and may, subject to requisite regulatory approvals, erect or cause to be erected and maintained within the limits of any public highway, all braces, appendages or other equipment and structures necessary for the operation of the ferry. The commissioners to contract with a private person or persons or a corporation for the independent operation of such ferry upon such terms and conditions as may be mutually agreed upon, provided, however that any such contract or renewal thereof shall not be for a period of longer than five years.

Section 4. The cost of acquisition, construction and equipment of the ferry, including lands and rights or easements in lands, shall be paid from taxes levied for the fiscal year in which

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such expenditure is made; from surplus funds, or from the proceeds of town obligations to be issued and sold in the manner provided by the local finance law. The town board of the town of Southold may borrow the amount needed for such purposes and issue town obligations therefor in an aggregate principal amount not exceeding five hundred thousand dollars. Upon the adoption of a resolution by the town board, subject to a permissive referendum by the owners of taxable real property situate within the ferry district as shown by the latest completed assessment roll of said town, such aggregate principal amount which the town board may borrow and for which obligations may be issued may be increased to any amount up to but not exceeding the sum of twenty million dollars.

Section 5. The affairs of the district shall be under the jurisdiction, control and supervision of a board of five commissioners. Commissioners shall be elected by the electors of the district as hereinafter provided. Natural persons who are registered to vote for town offices of the Town of Southold at the preceding election and whose voter registration has an address within the Fishers Island ferry district, natural persons who own real property situate within the Fishers Island ferry district assessed upon the last preceding town assessment roll, and individuals who have resided in the Fishers Island Ferry District for twelve (12) months and are 21 years of age prior to the election shall be eligible to hold the office of ferry commissioner. At least three (3) ferry commissioners must be natural persons who are registered to vote for town offices of the Town of Southold at the preceding election and whose voter registration has an address within the Fishers Island ferry district or residents of Fishers Island ferry district. The ferry commissioners shall have power and it shall be the duty of such commissioners:

- (a) To prepare or cause to be prepared, plans for the acquisition, construction and

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equipment of the ferry;

(b) To supervise the construction of any works or improvements connected with the ferry;

(c) To have jurisdiction, control and supervision over the ferry and to operate and maintain the same;

(d) To purchase all necessary tools, materials and supplies needed for the proper upkeep of the ferry;

(e) To enter into contracts or leases for the purpose of the ferry;

(f) To appoint and at pleasure remove a manager and such other employees and assistants as may be necessary to carry out the purposes of this act, and fix their compensation;

(g) To promulgate and adopt and from time to time amend rules and regulations governing the operation of the ferry;

(h) To fix and classify, subject to agreements with bond holders, and from time to time reduce or increase the rates of ferriage charges to be collected for the transportation of persons and of vehicles, and of goods, wares and merchandise;

(i) To fix the days and hours during which the ferry shall be operated and cause notice thereof to be posted at all entrances to the ferry;

(j) To post and keep posted in conspicuous and accessible places outside and adjacent to each entrance to the ferry, in plain view of the passengers upon such ferry, a schedule plainly printed in the English language of the rates of ferriage charges to be collected for transportation over such ferry;

(k) To have and exercise such additional powers and duties relating to the operation, maintenance and upkeep of the ferry.

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Section 5-a.

With respect to the airport or landing field on Fishers Island. The board of ferry commissioners may:

- (a) Equip, maintain, repair and operate such airport or landing field.
- (b) Adopt and amend from time to time, rules and regulations governing the operation and use of such airport or landing field.
- (c) Provide such services and facilities as are usual and incidental to the operation of an airport or landing field, including hangers, and fix, from time to time, the fees, charges, rentals or other consideration for the rendering of such services and the use of such facilities.
- (d) Grant licenses, concessions and privileges and sell space and rent premises to such grantees and licensees for the carrying out of the business furnishing services, supplies and materials required for the maintenance, repair and operation of aircraft and such other services, supplies and materials reasonably necessary or incidental to the operation of such airport or landing field.
- (e) Contract at the expense of the ferry district for insurance indemnifying the ferry district, or the town, or both, against loss arising from injuries to persons or property arising out of the maintenance and operation of such airport or landing field.
- (f) Cause ferry district property to be insured against loss or damage from fire or other hazard.
- (g) Lease such portion of the airport or landing field not required for airport or landing field purposes for any legal business purpose.

All revenues, of whatsoever kind or nature, arising out of the maintenance and

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operation of such airport or landing field, shall be the property of the ferry district, and shall be treated in the same manner as prescribed in section six hereof as to ferry revenues. All costs, expenses and liabilities, of whatever kind or nature, whether tort or contract, arising out of the ownership, maintenance and operation of such airport or landing field shall be charges against the ferry district and paid out of ferry district funds. The annual estimate required to be made by the board of ferry district commissioners pursuant to section ten hereof shall include anticipated revenues and expenditures arising out of the ownership, maintenance and operation of such airport or landing field.

Section 6. All monies received from ferriage charges shall be deposited daily in a bank banks or trust company companies in the state of New York and the state of Connecticut, to be designated by the commissioners and to the credit of the commissioners.

Section 7. The annual election of commissioners shall be held on the second Tuesday in August. At the first annual election one ferry commissioner shall be elected for a term of one year, one for a term of two years, one for a term of three years, one for a term of four years and one ferry commissioner shall be elected for a term of five years, to commence on the date of this election. Successors to such ferry commissioners shall be elected for terms of five years each, or fill the remaining term vacated by a former commissioner. The commissioners shall organize by the election from their number of a chairman who shall preside at all meetings of the board of commissioners. The commissioners shall meet at least monthly on a regularly scheduled day in each month in accordance with a schedule of meeting to be established by them prior to the start of the calendar year for the transaction of the business of the district. Special meeting may be

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held at the call of the chairman. Each commissioner shall receive for his services the sum of one hundred dollars for each meeting of the board actually attended by him in person, provided that the aggregate compensation which any such commissioner may receive for services rendered during any year shall not exceed the sum of five thousand dollars. In addition thereto each commissioner shall receive his expenses actually and necessarily incurred in the performance of the duties of his office. Such expenses shall be paid from the funds of the ferry district after audit and approval by the Commissioners. At all meetings of the board of commissioners, a majority of the commissioners, including vacant positions, shall be necessary and sufficient to constitute a quorum for the transaction of business, and action by the commissioners at a meeting shall be upon vote of a majority of the commissioners present at any meeting of the board at which a quorum is present. Commissioners may, upon proper public notice, participate in a meeting of the board by means of a videoconference, or such other means that allow for each participant to see and hear and be seen and heard by each other participant at the same time. Commissioners participating in a meeting by such means shall not receive compensation for participating in such meeting. Whenever a vacancy shall occur among the commissioners, the majority of the remaining commissioners may appoint a qualified person to fill the vacancy and serve as commissioner until next annual meeting.

Section 8. The manager shall be the administrative head of the district and shall devote his entire time to the duties of his office. Before entering upon the duties of his office, the manager shall take the constitutional oath of office and file the same in the office of the town clerk of the town. The functions, powers and duties of the commissioners relating to the operation and maintenance of Fishers Island ferry shall be exercised and performed by the

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manager or under his supervision subject to the direction and control of the commissioners. The manager shall execute and file with the commissioners any undertaking for the safekeeping and lawful application of any funds of the district which may come to his hands in such amount and with such surety or sureties as shall be approved by the commissioners. The commissioners shall have the right to appoint more than one person to act as co-managers for the district and to designate duties for each manager. All co-managers shall be bound by the obligations and requirements of this section and this Act.

The duties of the manager shall be to receive and have the custody of the funds of the district and to disburse the same for authorized purposes on the order of the commissioners, to keep appropriate and required books and records in connection therewith, and to submit same for examination and make reports to the commissioners at any time, upon their request.

The manager and commissioners shall furnish to the state comptroller, upon request, copies of such rules, orders, contracts, forms, and other documents as they shall adopt or employ, and such other information concerning their activities as it may require in the performance of their duties under this chapter.

The manager shall on or before the tenth day of each month, file with the commissioners a report of his activities during the preceding month in such detail as the commissioners shall require. Each such report shall contain a statement showing the amount of ferriage charges collected and all obligations of the district unpaid at the time of filing the report. All claims against the district shall be audited monthly by the commissioners and paid by the commissioners from moneys remaining to their credit and belonging to the ferry district.

The commissioners may authorize the district manager to establish and maintain a petty cash fund, not in excess of three thousand dollars, for specific district purposes or undertakings,

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from which may be paid in advance of audit, properly itemized and verified or certified bills for materials, supplies or services procured by the district in accordance with its procurement policy upon terms calling for the payment of cash to the vendor upon the delivery of any such materials or supplies or the rendering of any such services.

Lists of all expenditures made from such petty cash fund shall be presented to the commissioners at each regular meeting thereof, together with the bills supporting such expenditures, for audit and commissioners shall direct reimbursement of such petty cash fund from any district moneys in an amount equal to the total of such bills which it shall so audit and allow. Any of such bills or any portion of any such bills as shall be disallowed upon audit shall be the personal responsibility of the manager and such official shall forthwith reimburse such petty cash fund in the amount of such disallowances. The commissioners may authorize the district manager to establish revolving fund accounts for specific administrative and operational accounts, which may be carried from one fiscal year to another, and to authorize the district manager temporarily to deposit or invest moneys not required for immediate expenditure in special time deposit accounts in, or certificates of deposit issued by, a bank or trust company located and authorized to do business in the state of New York and the State of Connecticut, provided however, that such time deposit account or certificate of deposit shall be payable within such time as the proceeds shall be needed to meet expenditures for which such moneys were obtained and provided further that such time deposits or certificate of deposit be secured by a pledge of obligations of the United States of America or obligations of the state of New York or obligations of any municipality school district or district corporation of the state of New York.

Section 9. The annual election shall be held within the district at a place to be fixed by the commissioners. The commissioners shall cause notice to be posted in five public places in the

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district at least ten days before the date of the annual meeting. The notice shall state the time, place and object of the meeting and the hours that the polls are to remain open. The polls shall be open for a period of four hours to be fixed by the commissioners. Voting shall be in accordance with the procedures set forth in the New York State Election Law. The expense of such annual election shall be a charge against the district. Natural persons who are registered to vote for town offices of the Town of Southold at the preceding election and whose voter registration has an address within the Fishers Island ferry district, natural persons who own real property situate within the Fishers Island ferry district assessed upon the last preceding town assessment roll, and natural persons who are residents of the Fishers Island ferry district and meet the qualifications for voter registration established by the Suffolk County Board of Elections shall be eligible to vote at any such annual election. In no instance shall a natural person be entitled to more than one (1) vote in any such annual election. The members of the board of commissioners shall appoint a board of inspectors consisting of a chairman and two tellers, all of whom are resident taxpayers but not members of the board of commissioners and such board shall serve as the inspectors of election and at the close of the polls shall canvass the vote and certify the result of the election. A certificate of the result executed by the inspectors of election shall be filed in the office of the town clerk of the town of Southold.

Section 10. The fiscal year of the district shall commence on the first day of January and end on the thirty-first day of December. The commissioners shall prepare detailed estimates in writing of the anticipated revenues and expenditures for such district for the purpose of determining the amount of money required to meet the expenses of operation and maintenance of the district and district property and improvements for the fiscal year commencing on the first

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day of January next succeeding. Upon the completion of such annual estimates, the commissioners shall adopt a resolution specifying the time when and place where a public hearing will be held upon such annual estimates and require the manager to give notice of such hearing. Such hearing shall be held on or before the twentieth day of August in each year. Notice of such hearing shall be published once in one newspaper having general circulation within the district at least ten days prior to the time of such hearing. At the time and place specified in such notice, the commissioners shall meet and review said annual estimates. At such hearing any person may be heard in favor of or against such annual estimates as compiled or for or against any item or items therein contained. After such hearing the commissioners may increase or reduce any item contained in such annual estimates. Thereupon, the commissioners shall approve such annual estimates and submit the same to the town clerk of the town for its action thereon in the manner and within the time specified in section two hundred two-a of the town law. The town board shall add to any such estimate installments of principal and of interest accruing during such fiscal year on any town bonds issued to provide funds for the payment of the cost of acquisition, construction maintenance and equipment of the ferry district. The amount of such estimate shall be raised by tax upon all the taxable real property of the district, at the same time, in the same manner and by the same officers as town charges are raised by tax therein, and when collected shall be paid to the District, without delay.. All of the provisions of section two hundred two-a of the town law, not inconsistent with the provisions of this act, shall apply.

Section 11. No commissioner, officer, employee or agent of the district shall have any personal interest in any contract, lease or agreement executed pursuant to this act or in furnishing labor or materials for the district.

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Section 12. If the courts of the state or of the United States shall adjudge any section or sections, provision or provisions of this act unconstitutional or void, then such determination shall affect only the section or sections, provision or provisions so adjudged to be unconstitutional or void, and shall not affect any other section or provision of this act.

Section 13. All contracts for public work and all purchase contracts shall be let to the lowest responsible bidder after advertisement for bids where so required by section one hundred three of the general municipal law.

Section 14. (1.) The commissioners may establish one or more reserve funds for the financing of all or part of the cost a “specific object or purpose” or a “class of objects or purposes” , as such terms are defined in Section 2.00 of the local finance law, which may be constructed, reconstructed, acquired or provided by or on behalf of such district. The authorization of the establishment of such a fund shall be subject to a permissive referendum in the district and shall set forth the estimated maximum cost of any such specific object or purpose or class thereof.

(2.) There may be paid into such fund such an amount as may be provided therefore by budgetary appropriation or such district revenues as are not required by law to be paid into any other fund or account. Any amount to be assessed, levied and collected in the district to provide money for such fund shall be assessed, levied and collected in the same manner and at the same time as the amount to provide for the costs of operation and maintenance of such district.

(3.) An expenditure may be made from such a reserve fund only by the authorization of

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the commissioners and only for a specific object or purpose or class thereof, the cost of which may be financed therefrom.

(4.) The commissioners may authorize the transfer to the credit of a reserve fund created pursuant to this section for the district, any unexpended balance remaining in another reserve fund created for the district. If the object or purpose or class thereof for which the latter funds was established has been completed, acquired or provided, a sum sufficient to satisfy all outstanding claims arising from such completion, acquisition or provision shall be retained in such fund and not transferred.

Section 15. Notwithstanding the provisions of this chapter, or the provisions of any other general or special law, the town board of the town of Southold shall not sell or convey any of the real property or interest in real property, located within the boundaries of the Fishers Island Ferry District at Fishers Island, in the Town of Southold, Suffolk County, acquired, used or intended to be used for any of the purposes of the Fishers Island Ferry District unless (1) such sale or conveyance shall have been approved in writing by a majority of the commissioners of the Fishers Island Ferry District and (2) such sale or conveyance shall have been approved by a majority vote of the electors of the ferry district and the owners of real property situate within the ferry district assessed upon the last preceding town assessment roll voting upon a proposition therefor to be submitted at a special or annual meeting of the ferry district. At least thirty days before any special or annual meeting to vote upon such a proposition, the ferry district commissioners shall adopt a resolution which shall designate the date and place of such meeting, the hours of opening and closing of the polls, which shall be not less than four (4) consecutive hours between eight o' clock in the forenoon and eight o' clock in the evening. The

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commissioners shall give notice of such meeting by the publication of a notice in a newspaper or newspapers having general circulation in the district, specifying the time when and place where such meeting will be held, the hours during which the polls will remain open for the purpose of receiving ballots and setting forth in full all propositions to be voted upon. The first publication of such notice shall be at least twenty days prior to the time of such meeting. In addition, the commissioners shall post, or cause to be posted, a copy of such notice in five public places in the district at least twenty days prior to the time of such meeting. In all other respects the meeting to vote on such proposition or propositions shall be conducted in the same manner as provided herein for voting at annual district meetings.